

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.23139 OF 1995

DATED: 01-02-2007

Between:

R. Anjaneyan

.. Petitioner

and

Nizam's Institute of Medical
Sciences Punjagutta, Hyderabad
represented by its Director and
another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.23139 OF 1995

ORDER:

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 This writ petition is filed seeking a certiorari to call for the records relating to proceedings in Rc.No.3/105/89-E1 dated 27.09.1995 on the file of the 1st respondent and quash the same as arbitrary and illegal; and consequently to direct the respondents to promote the petitioner as Additional Medical Records Officer with effect from the date on which the 2nd respondent was promoted, with all consequential benefits such as arrears of salary, seniority etc.

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 It appears, the petitioner was appointed as Medical Record Assistant in the 1st respondent- Institute with effect from 19-12-1985. However, his services were terminated in the said cadre with effect from 31.07.1986 and again on 01.08.1986, he was appointed as a Record Assistant. Thereafter, the order dated 01.08.1986 was ratified and the petitioner was designated as Medical Record Assistant by an order dated 25.07.1987 and his services were regularized in the said cadre on 24.08.1989 with retrospective effect i.e. from 05.08.1986. However, thereafter, it seems the petitioner was promoted as Secretarial Assistant vide proceedings dated 05.10.1989. Further, by a memo dated 12.10.1992, the petitioner was asked to exercise his option as to whether he is willing to be in Medical Record Service. Thereafter, on the option of the petitioner, he was promoted to the post of Medical

Record Technician along with the 2nd respondent on 05.12.1992. Thereafter, the 2nd respondent was further promoted to the post of Additional Medical Records Officer vide proceedings dated 27.09.1995. The petitioner, aggrieved by the said order promoting the 2nd respondent as Additional Medical Records Officer, filed this writ petition.

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It is the case of the petitioner that 2nd respondent was originally appointed as a Record Assistant in the Subordinate Service with effect from 19.05.1987 and he was not appointed in the Medical Record Subordinate Service. Subsequently, he was promoted and brought into the Medical Record Service with effect from 05.12.1992 by his promotion along with the petitioner as Medical Record Technician. It is the contention of the petitioner that admittedly he was appointed as a Medical Record Assistant with effect from 05.08.1986, whereas the 2nd respondent was neither in the Medical Record Subordinate Service nor he is senior to the petitioner. Firstly, the promotion of the 2nd respondent with effect from 05.12.1992 in the post of Medical Record Technician itself is illegal. Secondly, the further promotion of the 2nd respondent to the post of Additional Medical Records Officer with effect from 27.09.1995, though on temporary basis, is arbitrary and illegal.

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A detailed counter-affidavit has been filed by the 2nd respondent stating that his promotion to the post of Additional Medical Records Officer is only a temporary one

and apart from that, it is a selection post as per the regulations and since the 2nd respondent satisfied all the eligibility criteria, he was promoted on his own merit; whereas the petitioner was not selected as he did not possess the educational qualifications as required under the Rules. The writ petition is devoid of merits and is liable to be dismissed.

- Heard both sides.

- It is an admitted fact that the petitioner was appointed as a Medical Record Assistant with effect from 05.08.1986 in the Medical Record Subordinate Service and his probation was declared, and thereafter he was appointed as Secretarial Assistant and further he was asked to opt for Medical Record Service which he did so. Likewise, the 2nd respondent was also brought from the Subordinate Service to that of Medical Record Subordinate Service by asking for option and, thus, both of them were promoted to the post of Medical Record Technician with effect from 05.12.1992. This order dated 05.12.1992 is not challenged by the petitioner. The only grievance of the petitioner is that the subsequent promotion of the 2nd respondent to the post of Additional Medical Records Officer is contrary to the regulations. Admittedly, the impugned order indicates that the promotion is only on temporary basis and it does not indicate as if any selection process was adopted for the purpose of selecting the 2nd respondent and promoting as Additional Medical Records Officer. On the other hand, the learned counsel for the 2nd respondent asserted that the post of Additional Medical Records Officer is a selection

post.

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Thus, there is no necessity of going into further details. It is suffice to notice that once the impugned order is only a temporary order made by the 1st respondent and both the petitioner as well as the 2nd respondent are entitled for consideration for promotion to the post of Additional Medical Records Officer, since it is a selection post, the writ petition is disposed of directing the 1st respondent to fill up the post of Additional Medical Records Officer by considering the case of the petitioner along with all other eligible candidates as per rules and pass appropriate orders. Till such time, the services of the 2nd respondent shall not be disturbed. This exercise shall be done within a period of three months from the date of receipt of a copy of this order.

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With the above directions, the writ petition is disposed of. No costs.

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C.V. RAMULU, J

1st February 2007.

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